CARE IN DRAFTING LAWS

No Matter How Exact the Words Lawyers Will Find Means to Dispute.

Two Years in Writing a Page or So of Statutes Did Not Save an Attorney-a Long Trip to This City for Information.

Addison C. Harris has views on law-making. "The art of statute-writing," said Mr. Harris, yesterday, in a conversation upon the city charter, the question being whether there might be a large amount of litigation over various parts of that work, "the art, I say, consists in using words and phrases to express a precise meaning within the definitions given to the words by previous decisions of the courts of the country. One danger in taking a statute from another State is that it is a universal rule that if a law of another State is adapted by this State, for example, it carries with it the construction placed upon the words of that law by the State from whence it comes. Where rights and property are dependent upon law large interests often turn upon the question whether the interest comes within or lies without the definition."

"How is that?"

"As an illustration: I spent two years in framing a statute which when passed consisted only of ten short sections, and covered less than two printed book pages. I revised and pruned it. I then submitted it to several of the best lawyers in this city, who did the same. Within less than three months after it was made a law and went into force, one of the best lawyers in Indiana journeyed 150 miles to ask me whether his case fell within or was without the meaning of one particular word about which before that inquiry I had never conceived that any dispute could arise. The strangest thing was that I was hardly able to form an opinion as to the application of the law to his case, and, although I did, an eminent judge held to the contrary opinion.

"In further illustration," continued Mr. Harris, after a pause," "we have a statute in this State known as the statute of frauds, which provides for contracts to be in writing, under certain circumstances. It is copied almost wholly from the English statutes. It is in force in every State in the Union. The English statute was written about 150 years ago, and covers less than three printed pages of a law-book. It deals with contracts, mortgages and trusts. It is fair to say that thousands of cases have arisen from the meaning of various parts of this statute, although the words are seemingly simple. The difficulty lies in the application to the multifarious phases of human affairs. A good many text-books have been written upon the subject. It was the opinion of Judge Worden, late of the Supreme Court, that one important question was never raised until the law had been in force more than seventy years. Some one has said that every word of this statute has cost an argosy.

"Now," said Mr. Harris, in conclusion, "the application is that when words come to have an exact legal meaning it is extra-hazardous to attempt to use a new word in legislating upon the same subject, otherwise the whole field of controversy is to be fought over and settled not only at an immense expense, but often disappointing the purposes and intentions of lawyers and business men in the conduct of their affairs. In 1872 a new tax law was passed in this State, made up largely of clippings from various tax laws of many States. This law led to more litigation on the subject of taxation than any law ever in existence. It was so confused and tangled that by common consent it was repealed and a new law written, using the words and sections, largely, of former laws of this State, so as to accommodate the statute to our special system of taxation. If it be true, as said, that the new charter is made largely by copying from the charters of the larger cities of other States, it will necessarily follow that may questions will arise leading to uncertainty, which can only be made certain by the authoritative decision of our courts of last resort. Those words and sections in our old city laws, which have been in force since 1857, have been construed by municipal officers and by the courts so as to have a precise and exact meaning to municipal affairs. Now, to introduce new words and phrases in sections, if even for the same purpose, will lead to disagreement more or less as to the application of such parts of the law to the various affairs of a large city like this. When the law is once settled to a definite meaning then the officers, lawyers and courts can each advise and act with certainty. So long as questions are unsettled resort in the very nature of things will be had to the courts wherever a question of interest arises between two citizens or between a citizen and the city growing out of the law."

Mr. W. P. Fishback was asked if litigation might not be brought to test some parts of the new city charter. "I do not think so," was the reply. "I cannot see who would be interested in doing so. I read the charter carefully. It is a collection of all the merits of a number of charters—of Philadelphia, Baltimore, Brooklyn and Boston. The central idea is the one that has been hammered over and over again, that a city government, like our State and national governments, should be composed of three distinct departments—legislative, judicial and executive—and that it is bad policy to have them mixed up at all. Of course, the Mayor has, to some extent, legislative functions so far as the right to veto is concerned, just as the President of the United States has legislative functions. It takes the Mayor's vote to make an ordinance good. The great advantage in this new charter is that when a citizen has a grievance growing out of a contract he can go to the Board of Works and find some responsible person to tell him how it all happened. A great many of our citizens will appreciate this.

"But as for this new charter," he further remarked, "this machine is not going to run of itself. It is like a splendid locomotive. It may be all right, but if a rod gets out of place, like on the Pennsylvania road the other day, the whole thing may go to smash. Just as great wrongs can be perpetrated under this charter as under the one we have unless the people are alive and wide awake. There is just as much need of having the interest in it kept up as to have had it enacted."

A FORTUNE IN A SMALL THING.

An Improved Turnbuckle In Court with a Likelihood of Staying There for a Long Time.

The chance visitor to the office of Master in Chancery Fishback, as he opens the door, sees upon the floor a heap of iron castings weighing about a ton. This lot of iron is a part of the evidence in a very important and interesting case, in which there is between 2,500 and 3,000 pages of type-written testimony. The case, which will come up for trial in the United States Court in May, is that of the Cleveland Forge and Iron Company, of Cleveland, against the Central Iron Company, of Brazil, this State, and is to determine which company shall have the right to make the "Williams turnbuckle."

"And what," asked the reporter yesterday, of the master in chancery, "is a turnbuckle?"

"A turnbuckle," was the reply, "is used for tightening truss-rods in bridges, cars and ships, and turnbuckles run in caliber from the sixteenth of an inch to six inches in diameter of screw."

"Then this pile of iron here is all turnbuckles?"

"Yes, and this is the story of an inventor. Before the invention of Williams, who was a workman at the Cleveland Forge and Iron Company, the turnbuckle was made by taking four pieces of wrought iron, heating one end at a time, and subjecting it to a great pressure, reducing it to the proper shape, boring out each end and cutting screw-threads to meet the screws on the ends of bolts that were to be tightened. Williams, while in the employ of the Cleveland company, wanted to sell his patent, and the company perhaps offered him $75,000 for it. Pending these negotiations, however, he entered into an agreement to give the right to make the turnbuckle to the Central Steel and Iron Company of Brazil, if that company would put up buildings and machinery of a stipulated kind. After the buildings and machinery were put up and had been in operation Williams became dissatisfied, and made the claim that the Iron and Steel company had not furnished proper facilities to manufacture the buckles in quantity sufficient for the trade, and failed in carrying out the agreement, and he transferred his interest in the patent to the Cleveland Forge and Iron Company."

"Had they made him a better offer?"

"Notice of rescinding of the contract," said Mr. Fishback, ignoring the question, "has been served by the Cleveland company upon the Brazil company, and this suit is brought for that purpose. The question in the case is which of the two concerns shall have the exclusive right to make these buckles. It is claimed by all parties concerned to be superior to any buckle in the market on account of the rapidity with which it can be made, the strength of the buckle and its peculiar shape. It is said that three of them can be turned out in the time that it takes to make one by the old process. The litigation is very earnest, as whichever one loses will have to stop the manufacture."

A BIG CLAIM FOR TOLL.

Use of a Turnpike by the Government and Over Which Armies Passed and Repassed.

Joseph F. Brown, of the county clerk's office, or "Uncle Joe" as every body insists upon calling this cheery and gentle septuagenarian, chanced to drop the remark that he had owned one of the most famous turnpikes in the country. The reporter encouraged him to talk about it. "It's a case in court now," said he, "and I don't know that I ought to say much about it. The road now belongs to my wife, Mrs. Marie V. Brown, as many years ago, before I became embarrassed in business, I gave it to her as a birthday present. About the beginning of the war I bought the stock of the Alexandria and Washington road, $25,000. I was then a resident of Washington City. This road was incorporated by act of Congress in 1808, Alexandria county, Virginia, then being a part of the District of Columbia. It was a turnpike, and the only means of communication with Alexandria and all that part of Virginia, there being no steamboats running between that place and Washington."

"Was it a profitable investment."

"When it first came into my hands it was; sometimes yielding 20 per cent. clear profit. In May, 1861, when the United States troops advanced and took Alexandria, on the day that Colonel Ellsworth was killed by hotel-keeper Jackson, the commanding general sent a provost guard and destroyed the only turnpike-gate on the road, taking possession of the road in the name of the United States, and holding it for more than five years."

"How were the tolls collected?"

"During all that time the toll-gate-keeper was kept in his place, and he kept a detailed return of passengers over the road during day time. This was done at the suggestion of President Lincoln and Secretary of War Stanton, both giving the assurance that at the termination of the war, and when the road was returned to the stockholders, the government would pay the tolls that were established by act of Congress in 1808. In November, 1866, the road was returned to the stockholders. The amount of tolls, according to the sworn statement of the toll-gate-keeper, upon which return the government had paid both before and after the war, amounted to about $150,000."

"What has become of the claim?"

"The claim is now before the court of claims, which, in recent decisions, has established a precedent which if followed must give judgment to the plaintiff. No interest is claimed on the amount, and if it was the government would not allow it. On the same day that the government took military possession of this road, possession was taken of the only hotel of any consequence in Alexandria, the Mansion House. Possession of this hotel was held for about the same time as of the road. The owner of the hotel died not long after the close of the war, and the heirs within the last five years presented their claim for rent. The Court of Claims has awarded them $82,500."

"What is the objection to Mrs. Brown's claim?"

"The only objection made by the government to payment is that the road was in a rebel State, as the government had paid tolls for turnpikes incorporated at the same time, one leading from Washington to Baltimore and the other from Washington to Frederick, Md. These three roads were incorporated by Congress on the same day in 1808. The government paid the tolls on these roads without hesitation. The plaintiff in the case of the Alexandria road thinks the objection of the government untenable, because Alexandria county was always loyal to the government. The Pierpont government that took the place of the disloyal government at Richmond established itself at Alexandria, the Legislature of the loyal counties of Virginia meeting there, and the same being recognized by Congress and President Lincoln."

"How long is the road?"

It is four miles from the south end of the Long bridge to Alexandria. The act of Congress alluded to allowed 6 cents for every foot passenger. McClellan's army of 220,000 men marched over it twice, once to the great review at Shooter's Hill, back of Arlington, just before the advance upon Richmond, and again back to Alexandria. Gen. W. T. Sherman's army of 90,000 men marched over it at the close of the war in coming to Washington. The government during nearly the whole of the war had large depots for provision in the neighborhood of Alexandria, because that place is really the head of navigation on the Potomac. The claim has been examined by Gen. John Coburn, who is now employed in the case, and it has also been examined by other lawyers, some of whom are very eminent. All have pronounced it just in every particular, and that if the government refused to pay it would be robbery."

DOXEY AS A GAS EXPERT.

His Idea About Pumping and Increasing Supply—Wells All Right if Properly Cared For.

Dr. Levi Ritter, of Irvington, has recently been conferring with Major Doxey, of Anderson, regarding a gas supply for his village. "Major Doxey," said the Doctor, "knows more about natural gas than any man in Indiana. I am not alone in that opinion, for some Ohio experts advance the idea which now has my indorsement. The Major is investigating a project of gas pumping, and he says that he can put into Indianapolis, through an eight-inch pipe, more gas than both the companies are now bringing here. I was talking to him about getting his assistance for a line to our place. He said that if we would put in a four-inch pipe he could make it supply Brightwood and Irvington. He had seen a demonstration of the pumping plan and that one thousand pounds pressure could be put upon the gas and rush it through."

"How about the wells becoming exhausted?"

"He doesn't believe the wells will exhaust themselves if properly treated; that the first two wells he put down at Anderson are just as strong as the day they were put in."

"How is the fact that some of the wells of our two Indianapolis companies are failing accounted for?"

"On the assumption that some of them were not well packed, and are suffered to flood themselves by back pressure, and the water drowns them out."

"Is there no remedy for such a state of affairs?"

"None was given. He claims that a plant put into Brightwood and Irvington would not pay less than 20 per cent. on the stock, and he proposed to take one-third of the stock himself. He has studied the gas question from the beginning and knows all about it."

"He charges something for tuition, doesn't he?"

"Well, those who have been to school to him were able to pay the fee."

He Does Then.

Ram's Horn.

A man never finds out how little he knows until his children begin to ask him questions.

Butterflies, cubes, stars, hearts, crescents and lovers' knots are among the latest jeweled hair-pins for the evening coiffure.

HOW THE NEWS GOT ABROAD

Sherman's Start on His March to the Sea Could Not Be Kept from the Public.

Carefully Guarded Information That Crept Through the Lines and Raised a Row Among Generals and the War Department.

The other day the subject of General Sherman's alleged lunacy was up for discussion, in the lobby of the Denison House, and one lounger after another made brief remarks thereon. One reminiscence followed another, until it came to Col. W. R. Holloway, who, as Governor Morton's private secretary and one of the proprietors of the Indianapolis Journal, was on "the inside" in a good number of secrets not possessed by the outside world. "When Sherman cut loose from Atlanta," said the Colonel, "he, as we all now know, severed all lines of communication between himself and Washington and struck out for the ocean. Gen. Thomas was left behind to take care of Hood. One morning Col. John W. Blake arrived here from General Thomas's army and came to the Journal office with a bit of news. He told me that Sherman had burned Atlanta, and, with his entire army, started for the sea, or, as he expressed it, 'had cut loose for hell or salt-water.'

"I regarded the news as important," continued Colonel Holloway, "but did not quite see my way to use it. However, a little later in the day, Dr. Vaile, of the Second Indiana Cavalry, who had also just arrived from the front, told me the same story, adding that General Thomas himself had given the information, and that it was no secret in his army. He said very plainly that the understanding was that Sherman had gone by way of Savannah and Charleston to join Grant. I wrote an editorial on the subject four or five inches long and double leaded, but hesitated to put it in the paper. It was, as I remember, headed 'Hell or Salt Water.' I held it, waiting for telegraphic confirmation of the story. Midnight came, then 1 and 2 o'clock in the morning, but nothing confirmatory by telegraph. About 3 o'clock it was put in the form and the morning paper came out with the editorial. It created a great sensation not only at home but over a great area East and West. The Associated Press man at Cincinnati, when the Journal got there, put the news on the wire and sent it East, and that evening and next morning it was widely disseminated. I don't suppose there ever was an item or editorial in the Journal that created quite as great a sensation as that one. The New York papers generally discredited the story, and said that there could be nothing in it as Indianapolis was no news center. The New York Times alone took a different view, and was of the opinion that there was something in it. The papers, you see, had overlooked the fact that Louisville was under military supervision, and no army news could get out from that point unless approved by the military authorities.

"These New York papers got down to the Army of the Potomac. General Grant, it is said, saw a copy containing the bit of news concerning Sherman, and immediately issued an order for the seizure of all the papers, evidently fearing that the rebels would get the news. But it was too late. Some of the boys had already exchanged copies with the rebel pickets for confederate papers, the latter being in great request by correspondents, who always paid for them with great liberality. On the day the article was reproduced in New York, General Hovey, who was then in command of the department of Indiana, received a dispatch from the War Department directing him to inquire into the matter and find out from what quarter this information had reached the Indianapolis Journal. My informants, it seems, had also given their news to General Hovey on the same day they had communicated it to me. The second morning after it was given in the New York papers General Horace Porter, of General Grant's staff, appeared at the Journal office. He handed me an order from General Grant for my arrest and requiring me to furnish information as to my authority for the publication. I told General Porter that the War Department had also ordered an investigation, and that I had given to General Hovey my authority; that these officers had come directly from General Thomas's army and had said that it came from General Thomas, who had enjoined no secrecy in the matter. General Porter, after a talk with General Hovey, said that the War Department ranked General Grant, and that the investigation, so far as he was concerned, was at an end.

"General Porter," said the Colonel in conclusion, "told me that all the arrangements for Sherman's march to the sea had been made between that general and Grant without the knowledge of the War Department, and that he himself, General Porter, had made several trips between the Potomac and Sherman's command in carrying the correspondence between the two great commanders. He said that he had no idea that any one outside of those two generals and the confidants upon their staffs had any knowledge concerning the movement, and he seemed greatly annoyed that Gen. Thomas should have talked about the matter. He thought, however, that it was improbable that Thomas should have done so. I have always been of the opinion that this disclosure on the part of Thomas was the occasion of some feeling between Grant and Sherman as against Thomas.

The National Plant.

New England Magazine.

There have been laudable efforts lately to elect a national flower by voting; but however dear, and rightfully dear, to the American heart is universal suffrage, it cannot decide this question, the answer to which should be by acclamation. And how could a fair vote be obtained without an organization almost such as is found necessary for choosing a President for the great Republic—which in this case is clearly impossible. Of all the plants selected by this republican caucus the one that is already national has been strangely neglected. The stately sunflower, the fragrant arbutus, the gay golden-rod, the beautiful mountain laurel, the grand magnolia, the gorgeous cardinal flower have each and all had their adherents, and been voted for; but when a few out of what should have been many millions of votes have been recorded the thing comes to a dead stop. The American Garden may speak of "our national flower, the golden-rod;" but when nothing has been the choice of the whole people, or a representative part of the people, nothing can come of it. But the maize, the Indian corn, has a strong though unacknowledged position as our national plant.